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October 15, 2021

The Honorable Martin J. Oberman
 Chairman Surface Transportation Board
 Washington, DC 20423

Dear Chairman Oberman,

Your comments addressed to the North American Rail Shippers Association and to Midwest Association of Rail Shippers earlier this year provide a glimmer of hope to those who care deeply about US rail transport. We believe that you are correct to ask *“whether the combination of the reductions in workforce, the interruptions in service, the demarketing all implicate the common-carrier obligation that railroads have and have had really since the beginning of the railroad industry.”*

We, the undersigned, wish to express our gratitude to you for engaging in this most important line of inquiry. We also urge you to continue to focus your energies in this direction and utilize your office and the resources of the STB to champion regulatory efforts, public policy, and the alignment of *common carrier obligations* of US railroads with 21st-century public interests^[1].

As you said, “*2021 is not 1980.*” Record profits are being extracted by the Class 1 railroads through the application of so-called “Precision Scheduled Railroading” (PSR) and decades of service and commodity exceptions. These exemptions pervert the very concept of *common carrier obligations*. Accountability to the public interest has been rendered nugatory. The fragility of globalized supply chains made apparent through the COVID-19 pandemic connects the dots on the failings of globalization untethered to the wellbeing of people and the planet and a railroad business model that has abandoned its stewardship of critical national infrastructure meant to serve the public good.

The confluence of crises facing our country and the potential solutions we seek repeatedly intersect with the untapped potential of our interstate railroads. Fending off catastrophic climate change demands a rapid decarbonization of our transport and energy systems. Electrification of our railroads and rail yards is essential for ensuring that railroad operations are not producing localized air pollution harms on communities near rail yards and ports. Electrification must be combined with mode shift.

You estimate that “*Since 2002, over 123 million tons of global warming CO2 has been pumped into our atmosphere just because the railroads chose not to maintain their market share as compared to trucks.*” Approximately 40% of long haul freight ton miles, i.e. freight moving over 500 miles, is carried by trucks rather than trains. This fact exposes an obvious mismatch between the freight system we have and the freight system the public deserves. The efficiencies of rail make mode shift of freight to rail a public priority for harm reduction whenever feasible, but absolutely essential for long hauls. GHG emissions are but one of the many public interest impacts related to US rails served by such mode shift.

Chairman Oberman, you point out that had the Class 1 railroads funneled more of their profits into growing capacity rather than stock buybacks and shareholder dividends that “*We would have more freight moved and at a lower rate. We would have more employment with better working conditions and the public would benefit with lower consumer prices, less highway congestion and less polluted air.*” Add reduced wear and tear on infrastructure, revitalized rural economies, reduced pollution from tires and much more. As you said, “*The United States decided long ago (that) the public interest requires*

some balance between the railroads operating as private profit-making companies ... and the public's interest.” It is time that we establish that balance.

In 2019, the EU published an External Costs of Freight Handbook^[2] to quantify the multiple public benefits of shifting freight from roads to rails and electrifying trains, ports and rail yards. The EU has invested in a Shift2Rail^[3] program to propose solutions for their freight system. The EU even declared 2021 the “Year of the Train.”

It is urgent that the US take the public's interest in rail transport at least as seriously as the EU and others around the globe. The US government needs to marshal its data to demonstrate the public's interest in transportation investments that maximize benefits and reduce harm. Such an effort could be easily done given the volume of data available, including the waybill data available to the STB. Quantifying the actual costs of our transportation choices — especially in regards to freight — will serve as a basis for clarifying and updating Common Carrier Obligations of the Class 1 railroads.

Therefore, Chairman Oberman, we ask that you champion an interagency collaboration to characterize the external costs of our freight transportation choices and develop an External Cost Calculator to allow policy makers, planners and public interest advocates to visualize the impacts of freight movement and modal choices.^[4]

We also request that you utilize the power and influence of your position to work with Congress and the Biden administration to:

1. Update the national transportation policy to reflect the 21st century public interest in decarbonization, equitable and affordable access, and supply chain resilience.
2. Restore meaning to the concept of Common Carrier based on the public benefits of equitable, accessible, reliable and affordable service that does not discriminate according to volume or distance in ways that undermine the opportunity of smaller or rural shippers and the public to benefit from the efficiencies and harm reduction of rail transport and its role in local, regional, and national supply chains.
3. End the distorting practice of granting commodity and service exemptions and revoke existing exemptions; and
4. Guide the Surface Transportation Board (STB) in expanding both the scope of the rate complaint process to include access to service and the range of parties

with standing to include municipalities negatively impacted by inadequate or discriminatory service.

In closing, the truth of your statement that *“It’s time for the railroads, shippers, workers and the public to realize that we’re all in this together”* is indisputable. However, historical experience and recent behavior by Class 1 railroads is full of prevarication, obfuscation, and obstructionism. We cannot wait for Wall St. to transcend its obsession with profits. This work cannot be delayed by half-measures or greenwashing by the Class-1 railroads. The only environment in which it is imaginable that Class 1 railroads would transform their practices to comply with CCOs that reflect 21st Century public interests is one in which those interests are clearly articulated by policy makers and the STB is fully empowered to enforce compliance.

The railroads and their rights of way are solutions hiding in plain sight for problems that are immediate and urgent. Marshaling this critical national infrastructure for the public good will require clarity of purpose and strong leadership. Chairman Oberman, we need you to remain bold and fully exercise the power and influence of your position.

With gratitude and solidarity,

Solutionary Rail – Bill Moyer, Campaign Director

Co-signing Organizations:

Sierra Club – Will Anderson, Deputy Legislative Director

UE, United Electrical, Radio & Machine Workers of America – Carl Rosen, President

EarthJustice – Paul Cort, Director Right to Zero Campaign

Railroad Workers United – Ron Kaminkow, General Secretary

Honor the Earth – Winona LaDuke, Executive Director

Indian Land Tenure Foundation – Cris Stainbrook, President

The Rural Coalition - Lorette Picciano, Executive Director

Campaign for America’s Future – Roger Hickey, Co-Director

Open Markets Institute – Phillip Longman, Policy Director

Progressive Democrats of America – Alan Minsky, Executive Director

Warehouse Workers for Justice – Yana Kalmyka, Labor & Env. Justice Director

Fenceline Watch – Yvette Arellano

The Harambee House/Citizens for Climate Justice

RootsAction.org – David Swanson, Campaign Coordinator

Popular Resistance – Margaret Flowers, Director

CleanAirNow – Beto Lugo-Martinez, Executive Director

Flexiwaggon America, Inc – Brian Yanity

People's Collective for Environmental Justice – Andrea Vidaurre, Policy Lead
Steel Interstate Coalition – Robinson Foster, Western Affairs
Beyond Extreme Energy – Maple Osterbrink, Member
Railstar Engineering, LLC – Ken Kirschling, Principal Bridge Engineer
Minnesota Renewable Energy Society – Mark Weber, President
Transit Riders Union – Katie Wilson, General Secretary
Climate Rail Alliance – Thomas White, Co-Founder
ProRail Nebraska – Clyde L Anderson, Webmaster, Editor
RAILPAC of California and Nevada – Steve Roberts, President
Physicians for a National Health Program-Washington – David McLanahan, Coord.
350Wenatchee – Jeanne Poirier, Leader
Sustainable Tucson – Tres English, Board President
Indivisible Tacoma – Linda Hood, Member Steering Team
Irthlingz Arts-Based Environmental Education – Sharon Abreau, Executive Director
Parallax Perspectives – Glen Anderson, Founder
Pacific Algorithms, LLC – Mark Ryan Sweet, CEO
Sarasota Climate Change Meetup – Jim Eachus, Organizer

Individuals (Organization listed for identification purposes only):

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Matthew B. Parker, Chair, Brotherhood of Locomotive Engineers & Trainmen, NV St Leg Bd
Jason T. Doering, NV St Leg Director, Int'l Assoc of Sheet Metal, Air, Rail & Transport Workers
Matthew Schumacher, Peer Coordinator Operation RefBlock, Union Pacific
Jim M. Garrett, IA State Legislative Director, Retired, SMART-TD
Franklin Seegmiller, Retired Railroad Conductor, AMTRAK
Shawn Brinsfield, NISEI Veterans Committee Foundation
Fritz Edler, Organizer, Railroad Workers United
Tim Gould, Advocate, Climate Rail Alliance
Scott Levy, Director, BlueFish.org
Rick Rupp, Manager, DamTruth
Mary Lou Finley, Ph.D, Professor Emeritus, Antioch University, Seattle
Phillip Stevenson, Int'l Steering Committee Member, RWU
Rivera Sun, Author and Organizer
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Charlene Bennett, League of Women Voters

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The Honorable Pete Buttigieg
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Congressman Peter DeFazio
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Congressman Donald Payne Jr.
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Senator Maria Cantwell
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Russell Senate Office Building 254;
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[1] Common Carrier Obligations for 21st Century Public Interests - Potential considerations for CCOs at [SolutionaryRail.org/cco](https://www.solutionaryrail.org/cco)

[2] Handbook on the external costs of transportation, published in 2019 by the EU
<https://op.europa.eu/en/publication-detail/-/publication/9781f65f-8448-11ea-bf12-01aa75ed71a1>

[3] Interview with Shift2Rail's Carlos Borghini and links to related documents at [SolutionaryRail.org/shift2rail](https://www.solutionaryrail.org/shift2rail)

[4] For example, Solutionary Rail created a mock up [External Cost Calculator](#) in collaboration with Huajing Shi, the Principal Data Scientist of the Port Authority of NY/NJ using formulas from a Kansas DOT Benefit Cost Analysis tool, and FAF4 data. STB waybill data would also make the tool far more accurate than the FAF4 data we had access to. See [SolutionaryRail.org/extcostcalc](https://www.solutionaryrail.org/extcostcalc)